



January 25, 2002

SENATE BILL No. 402

DIGEST OF SB 402 (Updated January 23, 2002 4:50 PM - DI 87)

Citations Affected: IC 36-2; IC 36-9.

Synopsis: County recording issues. Requires a county recorder to accept and record an instrument, even though the amount of money submitted exceeds the amount of the filing fee, if the instrument meets statutory requirements for filing. Requires the county recorder upon request to refund an overpayment that exceeds three dollars. Allows a municipal sewage works to file with the county recorder an individual instrument for each property on which fees are delinquent instead of a filing list of properties on which fees are delinquent.

Effective: July 1, 2002.

Lawson C

January 10, 2002, read first time and referred to Committee on Governmental and Regulatory Affairs.
January 24, 2002, reported favorably — Do Pass.

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SB 402—LS 7185/DI 94+



January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 402

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-2-11-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. **(a)** The recorder may
3 demand ~~his~~ **the recorder's** fees before entering and recording an
4 instrument.

5 **(b) If:**

6 **(1) a person, in payment of a recording fee required under**
7 **IC 36-2-7-10, submits an amount that exceeds the amount of**
8 **the fee set forth in IC 36-2-7-10; and**

9 **(2) the instrument submitted meets the statutory**
10 **requirements for filing;**
11 **the recorder shall accept and record the instrument. If the amount**
12 **submitted is at least three dollars (\$3) more than the fee required**
13 **by IC 36-2-7-10, the excess shall be refunded upon the request of**
14 **the person filing the document.**

15 SECTION 2. IC 36-9-23-33, AS AMENDED BY P.L.98-2000,
16 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2002]: Sec. 33. (a) An officer described in subsection (b) may

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1 defer enforcing the collection of unpaid fees and penalties assessed
 2 under this chapter until the unpaid fees and penalties have been due
 3 and unpaid for at least ninety (90) days.

4 (b) Except as provided in subsection (l), the officer charged with the
 5 collection of fees and penalties assessed under this chapter shall
 6 enforce their payment. As often as the officer determines is necessary
 7 in a calendar year, the officer shall prepare:

8 (1) a list of the delinquent fees and penalties that are enforceable
 9 under this section, which must include **the:**

10 ~~(1) the (A)~~ name or names of the owner or owners of each lot
 11 or parcel of real property on which fees are delinquent;

12 ~~(2) the (B)~~ description of the premises, as shown by the
 13 records of the county auditor; and

14 ~~(3) the (C)~~ amount of the delinquent fees, together with the
 15 penalty; **or**

16 **(2) an individual instrument for each lot or parcel of real**
 17 **property on which the fees are delinquent.**

18 (c) The officer shall record a copy of each list **or each individual**
 19 **instrument** with the county recorder who shall charge a fee for
 20 recording it in accordance with the fee schedule established in
 21 IC 36-2-7-10. The officer shall then mail to each property owner on the
 22 list **or on an individual instrument** a notice stating that a lien against
 23 the owner's property has been recorded. Except for a county having a
 24 consolidated city, a service charge of five dollars (\$5), which is in
 25 addition to the recording fee charged under this subsection and under
 26 subsection (f), shall be added to each delinquent fee that is recorded.

27 (d) This subsection applies only to a county containing a
 28 consolidated city. Using the lists **and instruments** prepared under
 29 subsection (b) and recorded under subsection (c), the officer shall
 30 certify to the county auditor a list of the liens that remain unpaid
 31 according to a schedule agreed upon by the county treasurer and the
 32 officer for collection with the next cycle's property tax installment. The
 33 county and its officers and employees are not liable for any material
 34 error in the information on the list.

35 (e) Using the lists **and instruments** prepared under subsection (b)
 36 and recorded under subsection (c), after September 1 of the preceding
 37 calendar year and before September 1 of the current calendar year, the
 38 officer shall before December 15 of each year certify to the county
 39 auditor a list of the liens that remain unpaid for collection in the next
 40 May. The county and its officers and employees are not liable for any
 41 material error in the information on this list.

42 (f) The officer shall release any recorded lien when the delinquent

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1 fees, penalties, service charges, and recording fees have been fully
 2 paid. The county recorder shall charge a fee for releasing the lien in
 3 accordance with IC 36-2-7-10.

4 (g) On receipt of the list under subsection (d) or (e), the county
 5 auditor of each county (excluding a county having a consolidated city)
 6 shall add a fifteen dollar (\$15) certification fee for each lot or parcel of
 7 real property on which fees are delinquent, which fee is in addition to
 8 all other fees and charges. The county auditor shall immediately enter
 9 on the tax duplicate for the municipality the delinquent fees, penalties,
 10 service charges, recording fees, and certification fees, which are due no
 11 later than the due date of the next May installment of property taxes.
 12 However, in a county having a consolidated city, the delinquent fees,
 13 penalties, service charges, and recording fees are due not later than the
 14 due date of the next installment of property taxes. The county treasurer
 15 shall then include any unpaid charges for the delinquent fee, penalty,
 16 service charge, recording fee, and certification fee to the owner or
 17 owners of each lot or parcel of property, at the time the next cycle's
 18 property tax installment is billed.

19 (h) After the date of certification in each year, the officer may not
 20 collect or accept delinquent fees, penalties, service charges, recording
 21 fees, or certification fees from property owners whose property has
 22 been certified to the county auditor. This subsection does not apply to
 23 a county containing a consolidated city.

24 (i) If a delinquent fee, penalty, service charge, recording fee, and
 25 certification fee are not paid, they shall be collected by the county
 26 treasurer in the same way that delinquent property taxes are collected.

27 (j) At the time of each semiannual tax settlement, the county
 28 treasurer shall certify to the county auditor all fees, charges, and
 29 penalties that have been collected. The county auditor shall deduct the
 30 service charges and certification fees collected by the county treasurer
 31 and pay over to the officer the remaining fees and penalties due the
 32 municipality. The county treasurer shall retain the service charges and
 33 certification fees that have been collected, and shall deposit them in the
 34 county general fund.

35 (k) Fees, penalties, and service charges that were not recorded
 36 before a recorded conveyance shall be removed from the tax roll for a
 37 purchaser who, in the manner prescribed by section 32(d) of this
 38 chapter, files a verified demand with the county auditor.

39 (l) A board may write off a fee or penalty under subsection (a) that
 40 is for less than forty dollars (\$40).

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 402, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 402 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0.

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